

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA.No.399 OF 2014

JUDGMENT:

Aggrieved by the order and decree, dated 30.07.2011, passed in O.P.No.767 of 2009 on the file of the Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge (FTC), Nizamabad, whereby and whereunder, as against the claim of Rs.2,00,000/- laid under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), since only a sum of Rs.86,000/- was granted for five grievous injuries sustained by the petitioner, besides granting amounts under various heads, the present appeal is preferred under Section 173 of the Act by the petitioner requesting to grant the balance amount.

2. The appellant is the petitioner – claimant, whereas respondent No.1 herein, who is the owner of the auto bearing No. AP-25-W-0739, is respondent No.1, and Respondent No.2-Reliance General Insurance Company Limited, who is the insurer, is respondent No.2 in the aforesaid original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

4. Heard Sri P.Radhive Reddy, learned counsel for the appellant, and Sri A.Rama Krishna Reddy, learned Standing Counsel for respondent No.2 – Reliance General Insurance Company Limited. Though, service was completed on respondent No.1, none appears for him.

5. There is no dispute in regard to the manner in which the accident did occur and the injuries sustained by the petitioner.

6. The only controversy in the present case is whether the petitioner is entitled to enhancement of compensation and, if so, to what amount?

7. Incidentally, since the claim was laid under Section 163-A of the Act, the amounts mentioned in the Second Schedule to Section 163-A of the Act would govern the situation. Before entering directly into the controversy in the present appeal, it is appropriate to refer to the ruling in **Puttamma v. K.L.Narayana Reddy**¹ relied on by the learned counsel for the appellant. It is his specific submission that in the said judgment, the Honourable Supreme Court summed up in paragraph '58' recommending to the Central Government to amend the Second Schedule to Section 163-A of the Act for the reason that by the date of rendering judgment in the year 2013, a period of 19 years elapsed and, despite repeated observations made by the Honourable Supreme Court, the Central Government has not made appropriate amendments to the Second Schedule table keeping in view the cost of living. The Honourable Supreme Court, in paragraphs '48' to '52' referred to the report of the Sixth Pay Commission to consider the trends in prices including natural inflation, Minimum Support Price for foodgrains according to crop year, Percentage increase in price of foodgrains since 1991-92, Minimum Support Price for non-foodgrains according to crop

¹ (2013) 15 SCC 45

year, Percentage increase in price of non-foodgrains in the years 1991-92, 1992-93, 1994-95 and 2011-12, the rates of minimum wages, annual income as per rates of minimum wages, dependency actual income—1/4th of annual income and expectation of life at birth in table A.12, and then a direction was given to the Secretary, Ministry of Road Transport and Highways to make proper amendments to the Second Schedule as observed in paragraph '58'. Learned counsel for the appellant would, therefore, submit that there cannot be any hindrance in enhancing the compensation, though, the Second Schedule, so far as the grievous injuries are concerned would prescribe a definite amount.

8. Learned Standing Counsel for respondent No.2, of course, would not submit anything in contra to what has been observed by the Honourable Supreme Court in the aforesaid judgment.

9. In such an event, certainly, the amounts granted by the Tribunal can be examined in assessing whether the petitioner is entitled to any enhancement?

10. As could be seen from Ex.A3 – injury certificate issued by the Medical Officer, which the Tribunal believed and granted compensation, PW.1 had sustained five grievous injuries. The amount granted towards grievous injuries was Rs.60,000/- @ Rs.12,000/- per grievous injury. The same is enhanced to Rs.1,00,000/- @ Rs.20,000/- per grievous injury. The amount of Rs.5,000/- granted towards medical expenditure is maintained. Even Rs.5,000/- granted towards extra-nourishment is also maintained. So also, the amount of Rs.3,000/-

towards transport charges, Rs.5,000/- towards pain and suffering, Rs.5,000/- towards loss of earnings and Rs.3,000/- towards attendant charges, are all maintained.

11. Thus, the petitioner is entitled to a total sum of Rs.1,26,000/- (Rupees one lakh twenty six thousand), as against Rs.86,000/- granted by the Tribunal, towards compensation and the same is, accordingly, granted.

12. Since the rate of interest awarded by the Tribunal at 7.5% per annum is in accordance with the rate of interest awarded by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**², the same is maintained on the entire amount awarded from the date of petition till realization.

13. Accordingly, the instant appeal is allowed in part, modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any, pending in the instant appeal, stand disposed of. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

October 24, 2017
v v

² 2013 ACJ 1403